

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14171, of Joy P. Davis, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.45 to use the subject premises for a community center building for Sign of the Times in an R-2 District at premises 605 - 56th Street, N.E., (Square 5216, Lot 20).

HEARING DATE: September 24, 1984
DECISION DATE: October 3, 1984

FINDINGS OF FACT:

1. The subject application appeared on the preliminary calendar for the public hearing of September 12, 1984. Section 302.3 of the Supplemental Rules of Practice and Procedure before the BZA requires that the applicant file with the Board not less than five days prior to the public hearing an affidavit demonstrating that the subject property had been posted with notice of the hearing at least fifteen days in advance of the hearing. In the subject case, the affidavit was filed two days prior to the public hearing. The Chairman waived the Rules based on an inadvertent mistake on the part of the applicant's agent. The Board was satisfied that the property had been posted in a timely manner.

2. Charles R. Norris, a member of the BZA, advised the Board that he had formerly been a member of the Board of Directors of the Sign of the Times. He stated that he is no longer on the Board, although the record reflected that his name is still on the stationery. When he left the Board of the Sign of the Times, Mr. Norris had requested that his name be removed from the stationery. The representative of the Sign of the Times agreed with Mr. Norris's representations. There was no opposition to Mr. Norris hearing the merits of the case. The Chairperson determined that there was no need for Mr. Norris to recuse himself.

3. The subject site is located on the east side of 56th Street, between Foote Street to the south and Nannie Helen Burroughs Avenue to the north and is known as 605 56th Street, N.E. The site is located in the Northwest Boundary neighborhood area, east of Lincoln Heights. The site is located in the R-2 District. The property is level, has 100 feet of frontage on 56th Street, and contains 25,424 square feet of land area. The property is improved with a two

story detached frame dwelling. The structure has a run down exterior appearance. There are art work and signs attached to the front of the structure advertising the proposed use.

5. North of and abutting the site there is an apartment house in the R-2 District. East and south of the site there are single family detached dwellings in the R-2 District. West of the site there is a church building and accessory parking lot in the R-2 District. Drew Elementary School, and the Woodson Senior High School Recreation Center are located within walking distance of the site.

6. The applicant has leased the subject premises to the Sign of the Times. The lessee is responsible for the maintenance of the property.

7. The applicant is requesting permission to operate a community center building at the subject site. The community center is called "Sign of the Times".

8. Under Paragraph 3101.45 of the Zoning Regulations, a community center building, park, playground, swimming pool, or athletic field operated by a local community organization or association is permitted by special exception provided that it is not organized for profit, but exclusively for the promotion of the social welfare of the neighborhood in which it is proposed to be located, it offers no articles of commerce for sale therein, it is not likely to become objectionable in a Residence District because of noise or traffic, and the use will be reasonably necessary or convenient to the neighborhood in which it is proposed to be located.

9. Under Paragraph 8207.2 of the Zoning Regulations, the relief can be granted if in harmony with the general purpose and intent of the Zoning Regulations, and will not tend to affect adversely the use of neighboring property.

10. In BZA Order No. 11623, dated July 31, 1974, the Board approved a special exception for use of the subject property as a temporary community service center. In BZA Order No. 12510, dated December 5, 1977, the Board approved a special exception for use of the property as a temporary community service center pursuant to Paragraph 3104.46 for a period of three years. In BZA Order No. 13557, dated April 29, 1982, the Board denied a use variance to allow the continuation of a temporary community service center as a gallery and office space on the site. In Order No. 13557, the Board concluded that it was in error in approving Application Nos. 11623 and 12510 for special exceptions under Paragraph 3104.46. This paragraph refers to the R-4 and less restrict Districts. The subject property is located in the R-2 District and is therefore not eligible

for consideration under Paragraph 3104.46. Hence, the relief requested in the prior case was through a use variance, the test for which the applicant could not meet.

11. The lessee is a non-profit organization incorporated under the laws of the District of Columbia. The lessee receives the bulk of its funds from various private foundations, the District Government, the D.C. Community of the Arts, the National Endowment for the Arts and the United Black Fund.

12. Sign of the Times Cultural Workshop and Gallery, Inc. was founded in 1970. The organization's activities are for the promotion of the social welfare of the residents of the neighborhood surrounding the subject site, the neighborhood being the Far Northeast area described as north of East Capitol Street and east of the Anacostia River. The organization offers cultural training in and exposure to the fine, visual and performing arts as well as seminars for youth, adults and senior citizens. The seminars deal with issues relevant to the community such as crime prevention, consumer awareness, and creative movement exercise dance.

13. The lessee conducts art sales approximately three times a year. The art work is displayed by private individuals. The income received by the applicant is based on a twenty percent donation basis. The Board finds such sales are in direct contravention of the Zoning Regulations. The Board, as listed below, will condition the grant herein prohibiting all such sales occurring on the subject premises.

14. The center operates from 10:00 A.M. to 8:30 P.M. seven days a week. The center is staffed by a maximum of three to four persons a day. It is estimated that approximately ten to fifteen persons attend the workshops on a daily basis.

15. The lessee testified that, based on past experience, the sound levels generated by the use of the premises will not be objectionable to adjacent or nearby properties. The premises is situated on a half acre of land which allows for large side and rear yard separation from the nearest residential neighbors. The yards with landscaping provide an effective buffer from noise. The center's activities are conducted inside the two story frame dwelling as well as in the surrounding yard area, weather permitting.

16. There is a sign with the center's telephone number on the front of the building for use during an emergency.

17. The center has never received any complaints about the activities conducted on the premises.

18. Three staff persons drive to the center on a daily basis. There is room on-site to park six automobiles in a

drive-way along the northern property line. Fifty-sixth Street at this location has no restriction on curb side parking. While most of the center's youth participants walk to the site, the adults and senior citizens drive. The center has secured permission from the Righteous Church of God directly across 56th Street from the subject site to use the Church's large parking lot during special occasions. The lessee was of the opinion that the center's activities will not adversely impact the surrounding street system given the availability of off-street and curb side parking. The Board so finds.

19. The center has filled a void in the subject neighborhood where no other similar programs exist. The Far Northeast community does not have within its bounds such organizations as the YMCA, YWCA, or Boys Club. The existing D.C. recreational facilities that are in the area do not offer the same types of programs featured by the center. The center is located one block off of Nannie Helen Burroughs Avenue to the north. Eastern and Southern Avenues are also nearby making the site easily accessible from major automobile routes. These avenues are Metro bus routes, which adds to the convenience of this location by users.

20. The structure appears to be plastered with signs and art works, front and rear. The rear yard is cluttered with furniture. Rear windows are boarded-up with coverings that hang askew.

21. The Office of Planning, by report dated August 31, 1984, recommended that the application be approved with conditions. The Office of Planning reported that it was of the opinion that the program, physical accommodations and activity level of the proposed community center are such that they meet the special exception criteria established by Paragraph 3101.45 and Sub-section 8207.2 of the Zoning Regulations. The Office of Planning noted that the center's fourteen year existence at the subject site and the absence of any known opposition from the community. The Office of Planning recommended approval of this application with the following conditions:

- a. The building shall be maintained in a state of good repair, in compliance with all applicable code and licensing requirements.
- b. Not more than one sign or display may advertise the use or be used to decorate the premises. Any sign or display used shall not exceed two feet by four feet in dimension.

The Board concurs in the reasoning and recommendation of the Office of Planning.

22. The center has been operating without a valid certificate of occupancy pending its appeal of BZA Order No. 13557 in the D.C. Court of Appeals. On November 4, 1983, based on the motion of the BZA the Court of Appeals remanded the case to the BZA. On June 21, 1984, the applicant filed the subject application with the BZA.

23. There was no opposition to the application.

24. Advisory Neighborhood Commission 7C filed no recommendation on the application. Single Member District Commissioner 7C06, the district in which the subject site is located, recommended approval of the application. The Board is required by statute to give "great weight" to the issues and concerns of an ANC only when reduced to writing in a recommendation. This is not the case herein.

CONCLUSIONS OF LAW AND OPINION:


Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires a showing through substantial evidence that the applicant has complied with the requirements of Paragraph 3101.45 and that the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met in general its burden of proof under both sections of the Zoning Regulations. The relief, as conditioned below, can be granted as in harmony with the intent and purpose of the zone plan. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. Approval is limited to operation of the facility by Sign of the Times/Cultural Workshop and Gallery, Inc.
2. The building shall be repaired and maintained in a good condition, in compliance with all applicable code and licensing requirements.
3. Not more than one sign shall be used to advertise the use or decorate the premises. The sign shall not exceed two feet by four feet in size.
4. There shall be no articles of commerce, including art objects, for sale on the subject premises.

VOTE: 3-0 (Maybelle T. Bennett, William F. McIntosh and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting, Douglas J. Patton not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

9 NOV 1984

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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